

### III. ACCOMPLISHMENTS BY OBJECTIVE

**Rule of Law:** Legal systems operate more effectively to embody democratic principles and protect human rights

In recent years, substantial achievement in legal reform has marked political transitions in Eastern Europe and the New Independent States of the former Soviet Union, Latin America and the Caribbean, Asia, and parts of Africa and the Middle East. The formerly communist countries, in particular, have passed new civil and commercial codes and a wide range of commercial legislation. The region has witnessed increased independence and greater professionalism of the judiciary. In Latin America, criminal codes have been revised to make the system more effective. In both regions, there is now greater official recognition of basic human rights and greater liberalization of civil and political rights such as freedoms of speech, press, and association. There have also been modest human rights improvements in parts of the Middle East. In Africa, there is great need for stronger ROL systems, but many African countries still lack sufficient political will for legal reform or judicial independence. This situation, sadly, is true in many countries around the world.

In comparing ROL programs across regions, it becomes clear that reform objectives have converged over time: Latin American projects that began with criminal justice have expanded into commercial and administrative law while those in the European countries have moved from commercial into criminal areas.

Having good laws on the books does not always translate into law enforcement. Ethnic conflicts, breaches of public security, political crises, and religious wars still provide the context for flagrant rights abuses. Conflict or post-conflict situations that threaten public security underscore the fragility of government respect for human rights.

Within this environment, the Center addresses ROL problems throughout the world by working to make USAID programming more effective in this field. Agency experience over the last decade with administration of justice programs in Latin America provides many of the valuable lessons from which the Center draws its guidance.

Political will is now widely recognized as an essential prerequisite for judicial reform. Assistance, however, can have an impact if various constituencies for reform—judges themselves or bar associations or other civic groups—are empowered. Another key lesson concerns reforming the criminal justice system. Police, prosecutors, judges, and defenders each play a unique part and reform must involve them all. The system itself must be treated as an organic whole. To train the police without training prosecutors and judges, for example, renders a lopsided system which stymies smooth and efficient functioning.

#### *1. Program Status*

Interest in ROL has grown within USAID as well as in inter-agency processes. President Clinton recently signed a decision directive, on strengthening criminal justice systems in complex emergencies, that recognizes the important role USAID, and in particular the Center, plays in ROL programming. G/DG is regularly involved with State and Justice on inter-agency assessments and other efforts to strengthen justice sector institutions. The Center has spent significant time designing and/or implementing ROL programs in **East Timor, Indonesia, Mongolia, Morocco, and Nigeria**, as well as in **Burundi, DROC, and Rwanda** as part of the Great Lakes Justice Initiative (GLJI).

#### *2. Statement of Purpose*

Respect for ROL and development of a well-defined and functioning justice system are essential underpinnings of a democratic society and modern economy, as they curb the abuse of power and

authority, provide the means to equitably resolve conflicts, and foster social interaction in accord with legal norms and gender equality. Approximately one-quarter of all appropriated resources requested by USAID for DG promotion will be expended in support of ROL programs. USAID Missions with a ROL objective now number 50. Missions implement ROL activities to address fundamental problems of public disorder and lack of security, over-concentration of political power, systemic abuses of official power, inequality before the law and impunity, and the absence of effective dispute resolution mechanisms.

In order to strengthen USAID programming and reinforce field-based efforts in the ROL area, the Center identifies lessons learned and provides strategic approaches and technical expertise to establish, improve, and strengthen ROL systems to operate more in accordance with democratic principles, including improving access to justice, administration of justice, and protection of human rights. To do this, G/DG designs and manages implementing mechanisms, develops and disseminates technical guidance, carries out assessments, and assists the missions in drafting ROL strategies.

### 3. *Key Results*

*Foreign Policy.* The Center has built strong working relationships with State's ROL coordinator and Justice, and has participated in inter-agency meetings to strengthen coordination among various USG agencies involved in ROL. Successful inter-agency coordination and collaboration are vital to achieving U.S. foreign policy objectives.

- The recently signed Presidential Decision Directive on Strengthening Criminal Justice Systems in Support of Peace Operations in Complex Contingencies (PDD#71) explicitly acknowledges that "in the increasingly global world, U.S. national security and other interests are inescapably linked to the effectiveness of foreign criminal justice systems." PDD#71 recognizes USAID's unique abilities to ensure that rapid-response initiatives also help to lead to sustainable and legitimate justice sector institutions. USAID, and specifically the Center, is charged with forming a strategic partnership with Justice under the overall leadership of State's Bureau for International Narcotics and Law Enforcement Affairs to coordinate developmental assistance, emergency planning, and rapid-response activities related to justice in post-conflict situations.
- G/DG was active on the International Criminal Investigative Training Assistance Program (ICITAP) advisory committee, which studied strategic planning, integration of police activities with justice sector reform assistance, and inter-agency coordination. A committee report to senior officials at State, Justice, and USAID resulted in improvements in ICITAP's strategic planning and coordination with other agencies. The Center also participated in the selection of a new ICITAP director.
- G/DG continued to collaborate with State's senior ROL coordinator and State's Bureau of Democracy, Human Rights, and Labor (DRL) on the development of justice sector strategies in various foreign policy priority countries, such as **East Timor, Indonesia, Kosovo, Nigeria, and West Bank/Gaza**. G/DG staff also carried out assessments and designed programs in **Burundi, DROC, and Rwanda** for the GLJI.
- G/DG instruments were tapped by State/DRL to assist, at the request of the International Criminal Tribunal for the former Yugoslavia, in documenting human rights abuses in **Kosovo**; and providing the Council of Europe's Venice Commission with an assessment of the merits and modalities of merging the **Bosnia Herzegovina (BiH)** Human Rights Chamber with the BiH Constitutional Court, as anticipated by the Dayton Peace Agreement.

*Technical Expertise.* By sharing its technical expertise in FY 1999, G/DG reached out to other donors and ROL practitioners in order to share strategic approaches and lessons learned.

- The Center developed a draft strategic design framework for ROL assistance. Based on *Weighing in on the Scales of Justice*, it was designed in part to capture the best practices and lessons learned from USAID's worldwide ROL programming over the past 15 years, and to help DG field officers weigh programming options. As part of its annual training workshop, G/DG designed and delivered its first formal training on the framework.
- G/DG agreed to support its U.S. NGO partners in developing a variety of analytical tools for diagnosing country-specific prospects for ROL reforms. The judicial independence project, which seeks to identify strategic approaches to designing and managing programs that effectively promote judicial impartiality, has already generated a high level of interest among experts and practitioners in and outside USAID.

*Field Support.* G/DG provided direct support to **DROC, Jamaica, Mali, Mongolia, Morocco, Rwanda, West Bank/Gaza**, and the Caribbean, and contributed rapid-response action to **Burundi, Kosovo, Morocco, and Nigeria**.

- The leading results of these efforts include a pilot test in **Mongolia** of ROL strategic planning. G/DG staff successfully tested the concept of ROL strategic planning by facilitating the development of the government of Mongolia's long-term vision for sectoral reform and donor coordination. The resulting national justice sector strategic plan identifies reform priorities, defines donors' roles and responsibilities, and addresses sequencing.
- In **Morocco**, Center staff designed and drafted the commercial law aspects of the mission's economic growth strategy, which was approved. G/DG will assist the mission in designing and negotiating assistance for Morocco's new commercial and administrative courts.

*Program Management/Direct Development Impact.* Implementing mechanisms have been effective in meeting a variety of Agency needs, both by field missions and regional bureaus. In addition, State has relied on their rapid-response capability to address foreign policy priorities. Over \$10 million has already been programmed through the leader with associates cooperative agreements, which proved to be in high demand and were used in all four regions, including in such countries as **Bosnia, DROC, Kosovo, Latvia, and Morocco**.

Center IQCs were used to implement activities in countries including **Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Malawi, Mongolia, Nepal, Paraguay, Russia, and Rwanda**, as well as in the Caucasus. Through an inter-agency agreement with the U.S. Federal Judiciary, strategic planning and budgeting assistance is being provided to the **Nigerian** judiciary and legislature. This is expected to lead to the initiation of a comprehensive ROL program. A grant to the International Development Law Institute continued to generate positive results in **Bulgaria, Laos, Madagascar, and Mongolia**. Judicial benchbooks, developed under the grant, are being used to promote greater transparency, predictability, and accountability in the judiciary.

#### **4. Performance and Prospects**

The Center is meeting its stated targets, as demonstrated by the results discussed above. It has drafted a ROL strategic framework, which was presented for the first time during the 1999 DG Officers Training Workshop. Rather than pilot testing the framework in El Salvador, a decision was made to continue developing the framework and to choose a country case study for the framework in this coming year. In addition, G/DG completed negotiations on three new ROL IQCs, renewed the participating agency service agreement with Justice, drafted a ROL training module, increased participation in inter-agency coordination and cooperation, and continued to give high priority to meeting the growing demand from missions in assessment, program design, implementation, and performance measurement.

During the fiscal year the Center welcomed a new senior ROL technical advisor and a Democracy Fellow. This enabled G/DG to renew its efforts in analysis and documentation in the ROL area. In the coming year, the Center will compile a region-by-region record of ROL activities in order to construct a record of past accomplishments and provide a baseline against which to assess future impacts.

Training will involve the development of region-specific sessions (to be offered twice per year starting in 2001), in addition to a 2000 DG Officers Training Workshop session. The Center will also develop training modules to complement the strategic framework discussion by providing in-depth guidance on distinct technical aspects of ROL programming.

Related technical leadership efforts will promote the building of consensus among practitioners and experts as to strategies and implementation activities that have been effective in ROL promotion. This will be pursued through seminars and conferences related to continuing work to refine and test the strategic design framework for ROL assistance, and the judicial independence project. The draft framework will be refined and finalized this year. G/DG will also refine the draft court and case management manual to increase its relevance to the field.

Analytical efforts led by the Center's partners are generating regional workshops and discussions on ways in which legal service providers can play a more strategic role in expanding access to justice and improved enforcement of legal judgments. Findings from regional legal service practitioners fora will be published and will provide guidance on designing more strategically oriented legal services. In addition, partners are developing diagnostic tools to measure the compatibility of a country's legal framework with the fundamental human rights acknowledged in the International Covenant on Civil and Political Rights; a tool to evaluate the effectiveness of human rights defenders' promotion and protection of human rights; and a gender rights and equality index that will offer a template for surveying the status of women as reflected in a country's legal framework and for the interpretation and application of that framework.

## **5. *Principal Contractors, Grantees, or Agencies***

The Center's ROL mechanisms comprise two inter-agency agreements with the U.S. Department of Justice and the U.S. Federal Judiciary (Judicial Conference of the U.S. Courts), and two leader with associates cooperative agreements led by Freedom House and the International Foundation for Election Systems. Associates to these latter agreements are the American Bar Association's Central and Eastern European Law Initiative, International Human Rights Law Group, and National Democratic Institute for International Affairs. A grant to the International Development Law Institute remains in place with support provided by field missions. IQCs that expired during this fiscal year included those with Amex International, Chemonics International, Conflict Management Group, and National Center for State Courts. New IQCs have been recently awarded to Management Systems for Development, the National Center for State Courts, and University Research Corporation--The IRIS Center.